

**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
LOS ANGELES SESSION  
APRIL 6, 7, and 8, 2005**

**(FIRST AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, 3rd Floor, North Tower, Los Angeles, California, on April 6, 7, and 8, 2005.

**WEDNESDAY, APRIL 6, 2005—2:00 P.M.**

- (1) S113466 Marine Forests Society v. California Coastal Commission
- (2) S120551 People v. Garza (Carlos)
- (3) S042278 People v. Samuels (Mary) *[Automatic Appeal]*

**THURSDAY, APRIL 7, 2005—9:00 A.M.**

- (4) S126182 People v. Black (Kevin)
- (5) S111985 People v. Perez (Gerardo)
- (6) S118489 Gomez v. Superior Court (The Walt Disney Company, Real Party in Interest) *(George, C.J. and Brown, J. not participating; Vogel, J. and Wiseman, J. assigned Justices Pro Tempore.)*

**1:30 P.M.**

- (7) S121933 Simon v. San Paolo U.S. Holding Co.
- (8) S121723 Johnson v. Ford Motor Co.
- (9) S113725 Discover Bank v. Superior Court (Boehr, Real Party in Interest)

**FRIDAY, APRIL 8, 2005—9:00 A.M.**

- (10) S117287 Delgado v. Trax Bar & Grill
- (11) S119750 Morris v. De la Torre
- (12) S119066 People v. Salazar (Jose)/In re Salazar on Habeas Corpus

**2:00 P.M.**

- (13) S037195 People v. Kennedy (Jerry) *[Automatic Appeal]*  
*To be called and continued to the Early May 2005 calendar*

\_\_\_\_\_  
George  
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT OF CALIFORNIA  
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**WEDNESDAY, APRIL 6, 2005—2:00 P.M.**

***(1) Marine Forests Society v. California Coastal Commission, S113466***

#03-46 Marine Forests Society v. California Coastal Commission, S113466. (C038753; 104 Cal.App.4th 1232; Superior Court of Sacramento County; 00AS00567.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issues: (1) Does the former or current legislative scheme governing the appointment and tenure of the members of the California Coastal Commission violate the separation of powers clause of the state Constitution (Cal. Const., art. III, § 3)? (2) If so, what effect would such a determination have on past decisions of the California Coastal Commission?

***(2) People v. Garza (Carlos), S120551***

#04-02 People v. Garza (Carlos), S120551. (H024041; 112 Cal.App.4th 655; Superior Court of Santa Clara County; CC095672.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Can a defendant be convicted both of (1) unlawfully *taking or driving* a vehicle in violation of Vehicle Code section 10851 and (2) *receiving* that same vehicle as stolen property in violation of Penal Code section 496?

***(3) People v. Samuels (Mary), S042278 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.

**THURSDAY, APRIL 7, 2005—9:00 A.M.**

**(4) *People v. Black (Kevin), S126182***

#04-83 *People v. Black (Kevin), S126182*. (F042592; unpublished opinion; Superior Court of Tulare County; 79557.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issues: (1) What effect do the decisions in *Blakely v. Washington* (2004) \_\_ U.S. \_\_, 124 S.Ct. 2531 and *United States v. Booker* (2005) \_\_ U.S. \_\_, 125 S.Ct. 738 have on the validity of defendant's upper term sentence? (2) What effect do those decisions have on the trial court's imposition of consecutive sentences?

**(5) *People v. Perez (Gerardo), S111985***

#03-15 *People v. Perez (Gerardo), S111985*. (G028325; 103 Cal.App.4th 203; Superior Court of Orange County; SA00CF2039.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Can a defendant be held liable for aiding and abetting the offense of possessing specified substances with the intent to manufacture methamphetamine without evidence that a principal other than the defendant committed that crime?

**(6) *Gomez v. Superior Court (The Walt Disney Company, Real Party in Interest), S118489 (George, C.J. and Brown, J. not participating; Vogel, J. and Wiseman, J. assigned Justices Pro Tempore.)***

#03-133 *Gomez v. Superior Court (The Walt Disney Company, Real Party in Interest), S118489*. (B163651; 110 Cal.App.4th 667; Superior Court of Los Angeles County; BC258512.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Is the operator of an amusement ride that starts and stops at the same place a common carrier and subject to the heightened standard of care set forth in Civil Code sections 2100 and 2101?

**1:30 P.M.**

**(7) *Simon v. San Paolo U.S. Holding Co.*, S121933**

#04-26 *Simon v. San Paolo U.S. Holding Co.*, S121933. (B121917; 113 Cal.App.4th 1137; Superior Court of Los Angeles County; BC152431.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issues: (1) In determining whether an award of punitive damages is constitutionally excessive under the principles of *State Farm Mut. Auto. Ins. Co. v. Campbell* (2003) 538 U.S. 408, should uncompensated or potential harm to the plaintiff be considered? (2) Was an award of \$1.7 million in punitive damages excessive when compared to \$5,000 in compensatory damages?

**(8) *Johnson v. Ford Motor Co.*, S121723**

#04-25 *Johnson v. Ford Motor Co.*, S121723. (F040188, F040529; unpublished opinion; Superior Court of Fresno County; 647076-9.) Petition for review after the Court of Appeal modified and affirmed the judgment in a civil action. This case includes the following issues: (1) Under *State Farm Mut. Auto. Ins. Co. v. Campbell* (2003) 538 U.S. 408, can punitive damages in California be based upon principles of general deterrence of wrongful conduct in this state and/or disgorgement of profits obtained by wrongful acts in this state, or is an award of punitive damages limited to the amount sufficient to punish the tortfeasor for the harm caused the individual plaintiff? (2) Did the Court of Appeal err in reducing a \$10 million punitive damage award to \$53, 435?

**(9) *Discover Bank v. Superior Court (Boehr, Real Party in Interest)*, S113725**

#03-43 *Discover Bank v. Superior Court (Boehr, Real Party in Interest)*, S113725. (B161305; 105 Cal.App.4th 326; Superior Court of Los Angeles County; BC256167.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case includes the following issue: Does the Federal Arbitration Act (9 U.S.C. § 1 et seq.) preempt a judicial finding that a provision in a mandatory arbitration agreement that provides that each party to the agreement waives any right to bring a class action against the other party is unconscionable under state law?

**FRIDAY, APRIL 8, 2005—9:00 A.M.**

***(10) Delgado v. Trax Bar & Grill, S117287***

#03-109 Delgado v. Trax Bar & Grill, S117287. (F040180; 109 Cal.App.4th 262; Superior Court of Stanislaus County; 227476.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Under what circumstances, if any, may a tavern owner who voluntarily provides security guards to monitor the tavern's parking lot and control patron behavior be held liable under the "special relationship" doctrine or the "negligent undertaking" doctrine for injuries to a patron who was criminally attacked in the parking lot by another patron and others?

***(11) Morris v. De la Torre, S119750***

#03-149 Morris v. De la Torre, S119750. (D040278; 111 Cal.App.4th 1047; Superior Court of San Diego County; GIS004607.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Under what circumstances, if any, does a business owner who is not otherwise liable for violent third party criminal conduct in an adjacent parking lot nonetheless have a legal duty to summon aid for a victim of such criminal conduct so that the owner may be held liable for negligently failing to summon such aid?

***(12) People v. Salazar (Jose)/In re Salazar on Habeas Corpus, S119066***

#03-143 People v. Salazar (Jose),/In re Salazar on Habeas Corpus, S119066. (B117225, B137034; 110 Cal.App.4th 1616; Superior Court of Los Angeles County; LA025781.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus, vacated a judgment of conviction of criminal offenses, and dismissed an appeal as moot. This case includes the following issue: Did the prosecution commit prejudicial error by failing to alert defense counsel that the coroner who testified at defendant's trial changed his opinion on the time or cause of death in other "shaken baby" cases?

**2:00 P.M.**

***(13) People v. Kennedy (Jerry), S037195 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.

*Oral argument in this matter is continued to the Early May 2005 calendar.*